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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,004	01/16/2004	Helmut Holzer	HOLZER - 5	8659

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1077 Northern Boulevard
Roslyn, NY 11576

EXAMINER

PHAN, HAU VAN

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/760,004

Applicant(s)

HOLZER, HELMUT

Examiner

Hau V Phan

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/16/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 1/16/2004 has been considered.

Abstract

3. The abstract of the disclosure is objected to because the phrase "The invention relates to" should be deleted. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1-16 the term "and/or" are rejected under 35 U.S.C. 112, second paragraph, as being indefinite due to the alternative limitations

Art Unit: 3618

Regarding claims 1, 7 and 16, the phrase "in particular" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claims 4-7, 9 the trademark/trade name Hall and GMR. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a sensor and, accordingly, the identification/description is indefinite.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rohmoser (5,498,017) in view of Hopkins (6,007,086).**

Art Unit: 3618

Rohrmoser in figures 9-21, discloses a safety ski binding with a toe binding (7) and a heel binding (8) and an electronic circuit incorporating an electronic display device (as shown in figure 2). Rohrmoser also discloses a sensor system for displaying at least one set safety release value of the safety ski binding, characterized in that an electronic evaluation device is provided in both the toe binding and in the heel binding. The toe and heel bindings have at least one sensor for detecting at least the respective set safety release value and each of the evaluation devices respectively has a power supply system and transmitter and/or receiver device for operating a wireless, one-way or two-way data or signal transmission, only a single display device being provided on the toe binding or on the heel binding, in particular a display with graphic capability, for displaying the respective values or states of the toe binding or heel binding. Rohrmoser fails to show a separate power supply system.

Hopkins in figure 1, teaches an electric ski binding having a separate power supply system for a toe binding and a heel binding. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the safety ski binding of Rohrmoser with the electric ski binding having a separate power supply as taught by Hopkins in order to eliminate all the part connecting the power supply between the toe and heel bindings.

Regarding claim 2, Rohrmoser discloses the evaluation device disposed in the heel binding, which is connected to a sensor for determining or checking a clamping pressure of a slip-on spring system of the heel binding relative to a ski shoe.

Regarding claim 3, Rohrmoser discloses the evaluation device disposed in the heel binding, which is connected to at least one sensor for detecting the open or closed state of the heel binding.

Regarding claim 4, Rohrmoser discloses the sensor for detecting the set safety release value, which is provided in the form of at least two sensors, in the detection range of which a multi-pole ring magnet rotatably joined to an adjusting screw for adjusting the release values of a release mechanism is disposed.

Regarding claim 5, Rohrmoser discloses when the adjusting screw is turned, at least one digital sensor signal is generated by sensors spaced at a distance apart from one another in the circumferential direction of the ring magnet and the evaluation device is designed to count or record the pulses or periods of at least one sensor signal by means of at least one counter.

Regarding claim 6, Rohrmoser discloses in that depending on the direction in which the adjusting screw is turned and hence depending on the phase position of the sensor signal of the first sensor relative to the sensor signal of the second sensor, a numerical value representing previous pulses or periods stored in a non-volatile memory system is increased or decreased by turns of the adjusting screw.

Regarding claim 7, Rohrmoser discloses in that the sensor for electronically determining the clamping pressure is provided in the form of a magnetic field sensor.

Regarding claim 8, Rohrmoser discloses in that the magnetic field sensor is joined to a housing of the heel binding so as to be prevented from moving and

Art Unit: 3618

a permanent magnet or metal part is disposed on a part of the slip-on spring system that is displaceable relative to the magnetic field sensor.

Regarding claim 9, Rohrmoser discloses in that the sensor for detecting the open and closed position is provided in the form of a first sensor and a second sensor, the first Hall-effect sensor being configured to signal the open state and the second sensor being configured to signal the closed state.

Regarding claim 10, Rohrmoser discloses in that the evaluation device is configured so as to periodically activate or deactivate the electric power supply of at least one sensor.

Regarding claim 11, Rohrmoser discloses in that the evaluation device disposed in the toe binding or the evaluation device disposed in the heel binding is connected to a motion sensor.

Regarding claim 12, Rohrmoser discloses in that the electronic evaluation device is switched off or switched to a power-saving mode if the signal status of the motion sensor remains constant for a specific period of time.

Regarding claim 13, Rohrmoser discloses in that the evaluation device is configured to evaluate the signal states of the motion sensor as a priority in a sleep or power-saving mode and other functions of the evaluation device are deactivated or minimised.

Regarding claim 14, Rohrmoser discloses in that the display device is switched off depending on the signals of the motion sensor and depending on a period of time which elapses without any movement being recorded by the evaluation device or the motion sensor.

Art Unit: 3618

Regarding claim 15, Rohrmoser discloses in that the evaluation device in the toe binding is configured to switch off or switch the display device to a power-saving mode if there is a change from the closed to the open state of the heel binding.

Regarding claim 16, Rohrmoser discloses in that the transmitter or receiver device in the toe or heel binding is configured to transmit data signals wirelessly or to receive data signals wirelessly to and from a peripheral electronic computer unit, in particular a wrist-top computer, a handheld computer, a mobile telephone or any other mobile electronic unit.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Oberleitner discloses a safety ski binding, Salomom discloses a sport equipment, Smolka et al. disclose a ski binding, Tonozzi et al. disclose a safety ski binding.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christ Ellis can be reached on 703-308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3618

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hau V Phan
Examiner
Art Unit 3618

Hau Phan
2/5/05

HAU PHAN
PATENT EXAMINER